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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Luca Bruschelli

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02/04/2009

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EXAMINER

GARLAND, STEVEN R

ART UNIT

PAPER NUMBER

2121

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/583,774	BRUSCHELLI, LUCA	
	<b>Examiner</b>	<b>Art Unit</b>	
	STEVEN R. GARLAND	2121	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 6/21/06 and 8/1/08.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 34-66 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 34-66 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/21/06</u> .   | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. Claims 34-66 are pending. Claims 1-33 have been cancelled.
2. Claim 47 is objected to because of the following informalities: in line 1 “redetermined” should be --predetermined--. Appropriate correction is required.
3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.
4. Claims 48-65 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 57-65 are all directed to nonstatutory subject matter in the form of a computer program by itself. A computer program is a form of functional descriptive material which is nonstatutory subject matter, since the program by itself is incapable of causing a physical transformation or is tied to another statutory class to render the claim statutory such as storage medium.

It is suggested that in claim 57, lines 1-2, that “A computer program directly loadable into memory of a computer” be changed to --A storage medium comprising a computer program-- and in line 7 inserting --that when executed are-- before “capable” to render the claim statutory.

Regarding claims 48-56, independent claim 48 is directed to a method of controlling in the preamble, but no actual control is recited to render the claim statutory since the preamble of the claim only sets forth an intended use not an actual use. The rest of the claim steps of providing a positioning specification, providing a cross section profile, and determining a curve appears to be nothing more than a series of mental

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steps which fail to cause either a physical transformation or are tied to another statutory class such as a particular apparatus to render the claim statutory.

The dependent claims 49-56 and 58-65 also fail to recite either a physical transformation or are tied to another statutory class to render the claim statutory.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 34-66 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Examples of problems are given below with suggested changes.

Claim 34, lines 12-14, are unclear what the phrase “determining a first excess material volume curve of said elastomeric material with respect to an available volume in said at one portion of the molding cavity versus a predetermined direction” means i.e. is a curve being plotted and if so relative to what. Further it is uncertain if the direction is associated with the mold or something else and it is also uncertain why there is an excess material.

In claim 36, line 4, refers to “at least a second positioning specification set” while lines 5-6, refer to “said second positioning specification set” and it is unclear as to how many sets there are.

Claim 42, line 4, “said elongated element” lacks a proper antecedent basis.

Claim 43, lines 1-2, “said first, second, or target excess material volume curve” lacks a proper antecedent basis

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Claim 44, lines 1-2, "said first, second , or target excess material volume curve" lacks a proper antecedent basis. In line 1, it is suggested that "--at least one of" be inserted before "said". Claims 45 and 46 have similar problems.

In claim 45, line 6, it is unclear what  $V_{\text{mold}}(y_1, y_2)$  represents. Claim 46 has a similar problem.

Claim 48, lines 1-2 are directed to a method of controlling disposition of an uncured elastomeric material however no actual control of disposition is set forth and it is unclear what the claim is directed to. Claim 57 has a similar problem.

Claim 51, line 2, "said volume distribution" lacks a proper antecedent basis.

In claim 58, line 2, it is unclear what the phrase "capable of being adapted for" actually means. Claims 59 and 60 have a similar problem.

The other claims have problems similar to the examples given above.

Some suggested changes are given below.

Claim 43, line 1, insert "--at least one of" before "said".

Claim 43, line 2, change "curve" to "--curves--".

Claim 44, line 1, insert "--at least one of" before "said".

Claim 44, line 2, change "curve" to "--curves--".

Claim 45, line 1, insert "--at least one of" before "said".

Claim 45, line 2, change "curve" to "--curves--".

Claim 45, line 6, change " $V_{\text{mold}}(y)$  is a volume" to "--  $V_{\text{mold}}(y_1, y_2)$  is a volume--".

Claim 46, line 1, insert "--at least one of" before "said".

Claim 46, line 2, change "curve" to "--curves--".

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Claim 46, line 6, change “  $V_{\text{mold}}(y)$  is a volume” to --  $V_{\text{mold}}(y_1, y_2)$  is a volume--.

Claim 48, line 12, after “direction” insert -- and controlling disposition based on the determining--.

Claim 51, line 2, change “using said volume” to --using volume--.

Claim 54, line 6, change “  $V_{\text{mold}}(y)$  is a volume” to --  $V_{\text{mold}}(y_1, y_2)$  is a volume--.

Claim 55, line 6, change “  $V_{\text{mold}}(y)$  is a volume” to --  $V_{\text{mold}}(y_1, y_2)$  is a volume--.

Claim 58, line 2, delete “capable of being “.

Claim 59, line 2, delete “capable of being “.

Claim 60, line 2, delete “capable of being “.

Claim 60, line 3, change “using said volume” to --using volume-- .

Claim 61, line 6, change “  $V_{\text{mold}}(y)$  is a volume” to --  $V_{\text{mold}}(y_1, y_2)$  is a volume--.

Claim 63, line 6, change “  $V_{\text{mold}}(y)$  is a volume” to --  $V_{\text{mold}}(y_1, y_2)$  is a volume--.

Claim 64, line 6, change “  $V_{\text{mold}}(y)$  is a volume” to --  $V_{\text{mold}}(y_1, y_2)$  is a volume--.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mancosu et al. 2004/0145083 is of interest in constant volume tire molding. Okano et al. 6,868,716 is of interest in tire designing.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEVEN R. GARLAND whose telephone number is (571)272-3741. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decady can be reached on 571-272-3819. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Albert DeCady/  
Supervisory Patent Examiner, Art Unit 2121

Steven R Garland  
Examiner  
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